



551 Hot Springs Boulevard  
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**TOWN COUNCIL MEETING AGENDA**  
**TUESDAY, APRIL 7, 2015**  
**Town Hall Council Chambers**  
**551 Hot Springs Blvd**  
**5:00 p.m.**

- I. CALL MEETING TO ORDER**
- II. PUBLIC COMMENT – *Please sign in to make public comment***
- III. CONSENT AGENDA**
  - 1. Approval of the March 19 & 27, 2015 Meeting Minutes**
  - 2. Liquor Licenses**
    - a. Liquor License Renewal – Los Bernal LLC dba Chato's Mexican Restaurant at 230 Country Center Drive**
    - b. Liquor License Renewal – Springs Resort LTD dba The Springs Hotel at 323 Hot Springs Blvd**
    - c. Liquor License Renewal – Foreplay at Bogey's Inc dba Bogey's Mini Golf at 83 Pike Dr**
    - d. Liquor License Renewal – Los Garcias Inc dba Tequillas at 439 San Juan Street**
    - e. Special Event Liquor Permit – Pagosa Springs Chamber of Commerce Car Show May 15<sup>th</sup> at Town Park on Hermosa Street**
    - f. Special Event Liquor Permit – Pagosa Springs Chamber of Commerce Car Show May 16<sup>th</sup> on Lewis Street**
    - g. Special Event Liquor Permit – Pagosa Springs Chamber of Commerce Colorfest September 18<sup>th</sup> and 19<sup>th</sup> at the Town Park Athletic Field on Hermosa Street**
    - h. Special Event Liquor Permit – Pagosa Springs Chamber of Commerce Retirement Party April 18 at the Ross Aragon Community Center, 451 Hot Springs Blvd**
- IV. OLD BUSINESS**
  - 1. Marijuana Local licensing Authority**
  - 2. Marijuana Business Operations Limitations**
- V. PUBLIC COMMENT – *Please sign in to make public comment***
- VI. COUNCIL IDEAS AND COMMENTS**
- VII. NEXT TOWN COUNCIL MEETING APRIL 23, 2015 AT 5:00 PM**
- VIII. ADJOURNMENT**

**Don Volger**  
**Mayor**



# AGENDA DOCUMENTATION

## OLD BUSINESS: IV.1

PAGOSA SPRINGS TOWN COUNCIL

APRIL 7, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

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**PROJECT: MARIJUANA LOCAL LICENSING AUTHORITY**

**ACTION: DISCUSSION AND POSSIBLE ACTION**

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### PURPOSE/BACKGROUND

As the Town Council considers certain aspects of the proposed retail / medicinal marijuana ordinance, one element of the ordinance is the designation of the body to act as the licensing authority.

Presently, the Town Council acts as the Local Licensing Authority for alcoholic beverages and this is done pursuant to Chapter 3 of the Town's Municipal Code. The Town will need to designate a body to perform the licensing for retail and medicinal marijuana establishments.

As noted above, the Town Council already serves as the Local Licensing Authority for alcoholic beverages and the Town Council could certainly continue to act as the Local Licensing Authority for marijuana establishments. However, if it is the desire of the Town Council, there are at least 2 other options, as follows:

- Establish a Local Licensing Authority that is not composed of Town Council members. The City of Durango Local Licensing Authority is not the City Council and is composed of 5 members that includes City staff and members of the general public.
- The Town Council could name an administrative law judge to serve as the local licensing authority.

It would be staff's recommendation for the Town Council to serve as the Local Licensing Authority for the following reasons:

1. Due to the high level of interest in this subject matter, it's important the public feels the Town Council is closely involved.
2. It is much more efficient for staff since the hearings for the alcoholic beverage Local Licensing Authority hearings coincide with Town Council meetings.
3. It is less of a burden for staff to administer a separate body (recruiting, meetings, filing, etc).

### ATTACHMENTS:

None

### FISCAL IMPACT

Regarding the choice of who acts as the Local Licensing Authority, the most direct fiscal impact is if the Town has to manage a separate body other than the Council for this purpose.

## **RECOMMENDATION**

In this case, it is staff's recommendation the Town Council take the following action:

**"Move to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision designating the Town Council as the Local Licensing Authority."**



# AGENDA DOCUMENTATION

## OLD BUSINESS: IV.2

PAGOSA SPRINGS TOWN COUNCIL

APRIL 7, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

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**PROJECT: MARIJUANA ESTABLISHMENT OPERATION LIMITATIONS**

**ACTION: DISCUSSION AND POSSIBLE ACTION**

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### PURPOSE/BACKGROUND

As the Town Council considers certain aspects of the proposed retail / medicinal marijuana ordinance, an important element of the ordinance are the restrictions imposed upon the establishments.

The operation limitations can vary in many ways. However, since it has been expressed the Town would like to model the County Ordinance, it is suggested that the Town use the limitations adopted by the County as a starting point. The restrictions are summarized as follows:

- Product labeling
- Limited hours of operation (8am to 7pm)
- Product storage – indoors and not visible to the public
- Prohibition on the use of certain metals and gases without prior verification of compliance with application codes
- Requiring use of an identification scanner
- Prohibition on free distribution of product
- Requiring in-person sales
- Compliance with the County's sign code
- Prohibition on certain advertising of product or the business
- Prohibition on sponsorship of events at which more than 30% of attendees will be under 21
- Requiring collection of sales tax
- Requiring an alarm system with video surveillance
- Use of certain doors and locks
- Use of a safe to store product when the establishment is closed
- Limitation on age of employees
- Business manager restrictions (no person shall manage the business unless on the application)
- Required warning signs
- Maintain certain business records
- Consent to disclose certain records; and
- Reservation of the Town's right to conduct inspections.

These limitations are more fully described in Section 1.09 of the County Ordinance. A copy of the County Ordinance is included in the Council materials.

### ATTACHMENTS:

County Ordinance 12-2014 – An Ordinance for the Regulation and Licensing of Marijuana Business Establishments

### **FISCAL IMPACT**

There is no direct impact to the Town for implementing the regulations. There is the indirect cost to the Town for administering and enforcing the limitations. At this time it is difficult to estimate what the fiscal impact would be for the administering and enforcement of an Ordinance.

### **RECOMMENDATION**

In this case, it is staff's recommendation the Town Council take the following action:

**"Move to direct staff to incorporate into the proposed medical and retail marijuana Ordinance, in a proper format, a section specifying operation limitations for retail and medical marijuana establishments similar to the limitations detailed in Section 1.09 of County Ordinance 12-2014."**



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**PAGOSA SPRINGS SANITATION GENERAL  
IMPROVEMENT DISTRICT MEETING AGENDA  
TUESDAY, APRIL 7, 2015  
Town Hall Council Chambers  
551 Hot Springs Blvd  
5:00 P.M.**

- I. CALL MEETING TO ORDER**
- II. PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**
- III. PUBLIC COMMENT – *Please sign in to make public comment***
- IV. CONSENT AGENDA**
  - 1. Approval of March 19, 2015 Meeting Minutes**
- V. REPORTS TO BOARD**
  - 1. PAWSD/Pipeline Update Report**
- VI. NEW BUSINESS**
  - 1. Discussion Regarding Dormant Sewer Accounts**
- VII. NEXT BOARD MEETING APRIL 23, 2015 AT 5:00PM**
- VIII. ADJOURNMENT**



# AGENDA DOCUMENTATION

## REPORTS TO BOARD:V.1

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS

APRIL 7, 2015

FROM: GENE TAUTGES, SANITATION SUPERVISOR

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PROJECT: PAWSD/PIPELINE REPORT

ACTION: DISCUSSION

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### Administrative

Staff is now responsible for review and certification of payrolls to the Colorado Water Resource and Power Development Authority under the US Department of Labor Davis-Bacon Act. This applies to only the pump 1 force main 1 section of the project. I am slightly behind on this task having recently returned from vacation, but will catch up shortly.

The construction contractor has indicated that they will be gearing up for full crews this month now that the weather is conducive for digging. Portions of the pipeline that remain to be installed include from the point where the pipeline crosses Trujillo Road (near Graham property, approximately 1.5 miles south to the Alpine Cascade property. Archuleta County will be doing major work on Trujillo Road from approximately the town limit to the transfer station sometime this summer, possibly June or July. We want to make sure that the contractors work in a portion of that same area is completed before the county begins their work. Also from pump station 1 to the top of the hill on the school district property remains to be installed.

Most work this month has been focused on pump station #2 with concrete pours, mechanical and dirt work being completed. Also, the diesel power generator for pump station #1 was set two weeks ago.

I intend to start an analysis on hydraulics and organics in the next few months as we begin to pump wastewater up to PAWSD. I will request some data from them and essentially add our data to that to try and forecast future upgrades for future budget work.



# AGENDA DOCUMENTATION

## NEW BUSINESS:VI.1

PAGOSA SPRINGS SANITATION GENERAL IMPROVEMENT DISTRICT

APRIL 7, 2015

FROM: GENE TAUTGES, SANITATION SUPERVISOR

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PROJECT: DISCUSSION REGARDING DORMANT ACCOUNTS

ACTION: DISCUSSION AND DIRECTION TO STAFF

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### PURPOSE/BACKGROUND

Staff has been requested to research what options are available for customers whose properties are no longer occupied and are believed to have no or little impact on the District's collection or treatment system. This is an issue that has arisen with many sanitation districts over the years and has been addressed essentially in a couple of different ways.

Some thoughts to keep in mind regarding this discussion include:

1. Districts have no way of knowing whether sewer service at any particular property is being used or not. For instance, a summer home, unused property, or rental properties may or may not generate wastewater at any given time. It should be mentioned that if a private service line leaks due to age or damage, it may allow unwanted flow into the system even though the property may be unoccupied. The thought here is that once service is connected to a property it is "useable" at any time without restriction according to the District's Rules and Regulations.
2. There is no way to turn sewer service off at any given property. Unlike having a valve to shut off the water, valves in a sewer line are not an accepted practice due to the inherent problems they cause. Typically, when sewer service is requested to be discontinued, the service line is excavated at the property line and the sewer is physically severed and plugged off. Section 5.7 #4 stipulates the consequences of that request.

The pertinent section (Section 5) regarding dormant sewer services of the currently adopted Rules and Regulations for the Pagosa Springs Sanitation General Improvement District (PSSGID) is as follows: (Emphasis added in Bold)

#### *5.16 Dormant Accounts*

*Residential Accounts are not permitted an inactive or dormant status. Commercial users are permitted seasonal closures or dormancy of accounts only if seasonal dates are submitted and there is 100% closure of the facility during that period. Penalties could apply if closure dates are not adhered to (Section 9 – VIOLATIONS, PENALTIES AND APPEALS)*

#### *5.17 Voluntary Termination of Sewer Service*

*Any tap owner may request a voluntary termination of service and that the District “void” the tap providing such service. Any such action will be at the discretion of the District and in accordance with these Rules and Regulations as well as San Juan Basin Health Department and the Colorado Department of Public Health and Environment. If such a termination is accepted, the following conditions shall apply:*

- 1) All current and past due fees and charges must be paid.*
- 2) Previously paid tap and PIF fees shall be non-refundable.*
- 3) Any connection to the system that is to be “voided” or terminated shall be capped at the sole expense of the tap or property owner. All work relating to the disconnection and capping shall be inspected by the District duly authorized representative. Failure of the property owner to comply with this action will subject the owner to penalties and additional costs incurred to excavate the tap for inspection by the District as provided for in Section 9 – VIOLATIONS, PENALTIES AND APPEALS of these Rules and Regulations.*
- 4) If the property owner desires to reconnect the “voided” tap to the system at some point following the disconnection, the property owner must make a formal application with the District according to the tap purchase procedure and remit to the District all applicable fees in effect at the time the reconnection application is requested.***

Another subject that has been asked about in recent years, which is not totally relevant to dormant or voided accounts, is the adoption of what is called an “Availability Fee” or “Readiness To Serve Fee.” These types of fees are technically meant to assist Districts in servicing the debt on bonds that vacant lots indirectly benefit from. It is used by some special districts and is allowed in the Colorado Revised Statutes which is condensed below by the Colorado Department of Local Affairs (DOLA).

#### **Availability of Service Fees**

*Colorado Statutes provide special districts (created pursuant to Title 32, Article I) with the authority to charge availability of service fees to repay water and/or sewer debt (§32-1-1006 CRS). This specific provision allows special districts to service debt according to a prescribed formula where the revenue generated by the fee cannot exceed 50% of the average usage charge for that system. In addition, the residential property that is assessed the fee must be within 100 feet of the water or sewer line to which it can be connected. Attached in appendix A are some examples of language used by Colorado special districts to authorize the use of availability of service fees.*

Appendix A referenced above in the DOLA report goes on further to explain the concept and language other districts have used. (Revised by DOLA 3/11/15)

#### **Availability of Service Fees**

*“...the District may assess availability of service or facilities fees upon providing notice of the meeting to consider such fees. **Availability of service or facilities fees shall be assessed solely for the purpose of paying principal and interest on any outstanding indebtedness or bonds to mature and accrue during the annual period within which such fees are payable.** Property shall be considered as having water or sewer service available for the purpose of assessing service availability fee when District water and sewer mains are installed in public*

right of way, easement, private drive, or common area, at an elevation capable of serving the property, and when water or sewer lines are installed within 100 feet of a property line. (Genessee Water and Sanitation District Rules, 10.16)

**"All property owners shall be charged an availability of service charge for each lot within 100 feet of the public water and sewer system within the District. Two or more adjoining lots which have been combined by a formal vacation of lot lines through an action approved by Jefferson County become a single lot. Adjoining lots may also be consolidated through the exemption procedure described herein..."** (Mountain Water and Sanitation District Rules and Regulations, Sec. 9.11)

**"Availability of Service Charges of \$48.00 per year will be assessed against each property where both sewer and water lines are installed and ready for connection within one hundred feet of the property line of the residential lot to be assessed but to which the sewer and water line have not been connected. However charges shall be adjusted to reflect an amount needed to service the debt on an annual basis. CRS 32-1-1006 is attached and made part of this resolution."**

**(Colorado City Metropolitan District Resolution No. 10-2003)**

It should be noted here that the Readiness to Serve Fee in the example below references properties with services already installed (sewer) and being required to pay the monthly service fee or the minimum rate. Since the PSSGID does not meter individual customer's sewer flows, **the current service fee is the only usage related fee** and is \$37.50 per equivalent residential unit.

#### **Readiness to Serve Fees**

**"A readiness-to-serve fee shall be charged for all properties which have had service installed, but for which service is turned off, whether such turn-off is voluntary or involuntary..."**  
(Genessee Water and Sanitation District Rules and Regulations, Section 10.13)

**"...Any person connected to the public sewage system shall pay the monthly service fee regardless of whether the building sewer in question is being utilized. This payment will be required for unoccupied and connected dwellings, businesses shut down or temporarily idle, and vacant mobile home spaces and all other unused connections..."** (Durango West Metropolitan District Resolution 89-03, sec. 8-C)

**"...Any property connection to the system shall pay the minimum rate...for twelve months per year whether the property is occupied or the water system is used."**  
(Town of Grover Ordinance #78-2, Section 15)

Finally, it should be mentioned that the establishment of these fees must be done in a fashion that treats all customer classes equally and fairly as mentioned in the DOLA report.

32-4-522 (2)(a) CRS

**Calls for rates and fees to be uniform among customers classes, and based upon some measurable consumption factors.**

#### **ATTACHMENT(S)**

**[Click here](#)** to access the entire Utility Fees, Rates and Collections report from DOLA ([www.colorado.gov](http://www.colorado.gov))

#### **FISCAL IMPACT**

It is beyond the scope of this brief to determine the fiscal impact to the PSSGID that might occur if dormant or voided accounts were allowed to be exempt from monthly service charges without a comprehensive analysis of the affected properties and budgetary impact. It would also require a revision to the PSSGID Rules and Regulations.

**RECOMMENDATION**

1. Staff would like to get direction from the board as to whether further analysis is desired and to determine all the anticipated impacts. Any rate revisions, (especially reductions), have an effect on the PSSGID's previous financial commitments and would require legal counsel review and budgetary analysis.